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Attorneys for Defendant
ZAPPOS.COM, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NCR CORPORATION, a Maryland
Corporation,

Case No. C-06-5599 WHA

**STIPULATION AND [PROPOSED]
ORDER OF DISMISSAL WITH
PREJUDICE**

Plaintiff,

V.

ZAPPOS.COM, INC., a California
Corporation,

Defendant.

STIPULATION

IT IS HEREBY STIPULATED, by and between Plaintiff NCR Corporation. ("NCR") and Defendant Zappos.com, Inc. ("Zappos"), through their respective counsel of record, that:

1. NCR filed the Complaint in this action on September 12, 2006, asserting claims against Zappos;

2. NCR filed the Amended Complaint in this action on November 14, 2006, asserting claims against Zappos;

3. Zappos filed an Answer and Counterclaims on November 30, 2006;

4. NCR's time to answer or otherwise respond to the Answer and Counterclaims filed by Zappos has not yet run;

⁵ See R. G. B. Smith, 'The 1991 Census in the context of the NCP', *ibid.* 1992, 10, 1, 1–16.

its claims against Zappos with prejudice and Zappos hereby dismisses its counterclaims against NCR with prejudice pursuant to Federal Rule of Civil Procedure 41(a);

6. Each party will bear its own legal expenses, including without limitation, attorneys' fees and costs; and

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: January 3, 2007

The Honorable William H. Paup
United States District Court Judge

1 Dated: December 29, 2006

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RESPECTFULLY SUBMITTED,
ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ Clifford R. Michel

Clifford R. Michel
Attorneys for Plaintiff
NCR CORPORATION

Dated: December 29, 2006

TOWNSEND AND TOWNSEND AND CREW LLP

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/s/ April E. Abele

April E. Abele
Attorneys for Defendant
ZAPPOS.COM, INC.